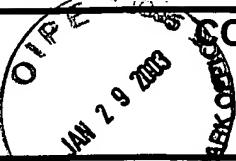


01-30-03

PTO/SB/29 (10-00)

Approved for use through 10/31/2002. OMB 0651-0032
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

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CONTINUED PROSECUTION APPLICATION (CPA)

REQUEST TRANSMITTAL

Submit an original, and a duplicate for fee processing.

(Only for Continuation or Divisional applications under 37 CFR 1.53(d))

CHECK BOX, if applicable:
 DUPLICATEPATENT & TRADEMARK OFFICE
Address: 1000 LEAVENS DR., MC 2000
TECH CENTER 1600
JAN 03 2003Assistant Commissioner for Patents
Box CPA
Washington, DC 20231

| | |
|---|-----------------|
| Attorney Docket No. of Prior Application | 010-US-002 |
| First Named Inventor | Glenn Spaulding |
| Examiner Name | Gailene Gabel |
| Group Art Unit | 1641 |
| Express Mail Label No. | EL 870120381 US |

This is a request for a continuation or divisional application under 37 CFR 1.53(d),
(continued prosecution application (CPA)) of prior application number 09 / 550,276,
filed on 4/15/2000, entitled Novel Flow Cytometer

NOTES

FILING QUALIFICATIONS: The prior application identified above must be a nonprovisional application that is either: (1) complete as defined by 37 CFR 1.51(b), or (2) the national stage of an international application in compliance with 35 U.S.C. 371. Effective May 29, 2000, a CPA may only be filed in a utility or a plant application if the prior nonprovisional application was filed before May 29, 2000. A CPA may be filed in a design application regardless of the filing date of the prior application. See "Request for Continued Examination Practice changes to and Provisional Application Practice," Final Rule, 65 Fed. Reg. 50092 (Aug. 16, 2000); Interim Rule, 65 Fed. Reg. 14865 (Mar. 20, 2000), 1233 Off. Gaz. Pat. Office (Apr. 11, 2000).

C-I-P NOT PERMITTED: A continuation-in-part application cannot be filed as a CPA under 37 CFR 1.53(d), but must be filed under 37 CFR 1.53(b).

EXPRESS ABANDONMENT OF PRIOR APPLICATION: The filing of this CPA is a request to expressly abandon the prior application as of the filing date of the request for a CPA. 37 CFR 1.53(b) must be used to file a continuation, divisional, or continuation-in-part of an application that is not to be abandoned.

ACCESS TO PRIOR APPLICATION: The filing of this CPA will be construed to include a waiver of confidentiality by the applicant under 35 U.S.C. 122 to the extent that any member of the public who is entitled under the provisions of 37 CFR 1.14 to access to, copies of, or information concerning, the prior application may be given similar access to, copies of, or similar information concerning, the other application or applications in the file jacket.

35 U.S.C. 120 STATEMENT: In a CPA, no reference to the prior application is needed in the first sentence of the specification and none should be submitted. If a sentence referencing the prior application is submitted, it will not be entered. A request for a CPA is the specific reference required by 35 U.S.C. 120 and to every application assigned the application number identified in such request, 37 CFR 1.78(a).

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

- Enter the unentered amendment previously filed on December 12, 2002 under 37 CFR 1.116 in the prior nonprovisional application.
- A preliminary amendment is enclosed.
- This application is filed by fewer than all the inventors named in the prior application, 37 CFR 1.53(d)(4).
 - DELETE** the following inventor(s) named in the prior nonprovisional application:
.....
.....
b. The inventor(s) to be deleted are set forth on a separate sheet attached hereto.
- A new power of attorney or authorization of agent (PTO/SB/81) is enclosed.
- Information Disclosure Statement (IDS) is enclosed: 01/31/2003 AWONDAF1 00000099 501927 09550276
 - PTO-1449 01 FC:2006 375.00 CH
 - Copies of IDS Citations 02 FC:2201 84.00 CH
 - 03 FC:2202 126.00 CH

[Page 1 of 2]

Burden Hour Statement: This form is estimated to take 0.4 hours to complete. Time will vary depending upon the needs of the individual case. Any comments on the amount of time you are required to complete this form should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, Washington, DC 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Assistant Commissioner for Patents, Box CPA, Washington, DC 20231.

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| CLAIMS | (1) FOR | (2) NUMBER FILED | (3) NUMBER EXTRA | (4) RATE | (5) CALCULATIONS |
|--------|---|------------------|------------------|-------------------------------|------------------|
| | TOTAL CLAIMS (37 CFR 1.16(c) or (i)) | 34 -20* = | 14 | x \$ 18.00 = | \$ 252.00 |
| | INDEPENDENT CLAIMS (37 CFR 1.16(b) or (i)) | 6 -3** = | 2 | x \$ 84.00 = | 168.00 |
| | MULTIPLE DEPENDENT CLAIMS (if applicable) (37 CFR 1.16(d)) | | | + \$ 0.00 = | 0.00 |
| | | | | BASIC FEE (37 CFR 1.16) | 740.00 |
| | | | | Total of above Calculations = | 1160.00 |
| | Reduction by 50% for filing by small entity (Note 37 CFR 1.27). | | | | -580.00 |
| | * Reissue claims in excess of 20 and over original patent. | | | TOTAL = | 580.00 |
| | ** Reissue independent claims over original patent. | | | | |

6. Small entity status: Applicant claims small entity status. See 37 CFR 1.27.
7. The Commissioner is hereby authorized to credit overpayments or charge the following fees to Deposit Account No. 501927 - 010-US-002:
 - a. Fees required under 37 CFR 1.16.
 - b. Fees required under 37 CFR 1.17.
 - c. Fees required under 37 CFR 1.18.
8. A check in the amount of \$_____ is enclosed.
9. Payment by credit card. Form PTO-2038 is attached.
10. Applicant requests suspension of action under 37 CFR 1.103(b) for a period of _____ months (not to exceed 3 months) and the fee under 37 CFR 1.17(i) is enclosed.
11. New Attorney Docket Number, if desired _____
[Prior application Attorney Docket Number will carryover to this CPA unless a new Attorney Docket Number has been provided herein.]
12. a. Receipt For Facsimile Transmitted CPA (PTO/SB/29A)
 - b. Return Receipt Postcard (Should be specifically itemized, See MPEP 503)
13. Other: Copy of Amendment filed on December 12, 2002.

NOTE: The prior application's correspondence address will carry over to this CPA
UNLESS a new correspondence address is provided below.

14. NEW CORRESPONDENCE ADDRESS

Customer Number or Bar Code Label

29664

or New correspondence address below

(Insert Customer No. or Attach bar code label here)

Name

Address

City

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Fax

15. SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT REQUIRED

Name (Print /Type)

Coe R. Miles

Signature

Registration No. (Attorney/Agent)

38,559

Date

January 29, 2003

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

COPY

Title : Novel Flow Cytometer
Inventor : Glenn Spaulding
Serial No : 09/550,276 § Examiner : Gailene Gabel
Filed : Apr 15, 2000 § Phone : 703-305-0807
Docket : 010-US-002 § Art Unit : 9303



Commissioner for Patents
Box AF
Washington, D.C. 20231

CERTIFICATE OF MAILING (37 C.F.R. 1.8)

The undersigned hereby certifies that this correspondence is being deposited with the U.S. Postal Service as First Class Mail in an envelope addressed to the Commissioner for Patents, Box AF, Washington, DC 20231, on 12/12/02.

Melissa K. Mosby
Melissa K. Mosby

REPLY TO FINAL OFFICE ACTION DATED NOVEMBER 12, 2002

Please amend the application as follows.

In the Claims

Amend claims 1, 10, 19, 23 and 26 as follows (a copy of this amendment indicating the requested changes in mark-up format is attached).

1. 1. (Amended Twice) A cytometer apparatus comprising:
 2. a rotating means adapted to receive and rotate a transparent cylinder along a longitudinal axis of the transparent cylinder;
 4. a light source adapted to illuminate at least a portion of said transparent cylinder
 5. while the transparent cylinder is being rotated by the rotating means;
 6. a detector adapted to detect a light signal provided by said light source and
 7. reflected from said transparent cylinder while the transparent cylinder is being rotated
 8. by the rotating means;
 9. determining means for determining at least one cytometric characteristic
 10. sample disposed in said transparent cylinder based on said light signal; and

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